REMARKS

Claims 11-20 are pending in the present application. None of the claims have been amended in this response. The Applicant respectfully requests reconsideration of the rejections of these claims based on the following remarks. An Examiner Interview is further requested.

Claims 11-20 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Fujii et al.* (U.S. Patent No. 5,862,487) in view of *Bark et al.* (U.S. Patent App 2002/0077138). The Applicants respectfully traverse this rejection for the following reasons.

With respect to independent claims 11 and 18, the Office Action asserts that *Fujii* teaches all of the elements of these claims except for "using the additional information by the space station controlling a transmitting power for a further signaling channels for allocating the requested number of transmission channels to the radio station," as featured in claim 11, or "an evaluating device . . . for controlling a transmitting power for a further signaling channel for allocating the requested number of transmission channels" as featured in claim 18. The Office Action asserts, however, that based on either knowledge known in the art and the teachings of *Bark*, one of ordinary skill in the art would deem these features obvious. The Applicant respectfully disagrees for the following reasons.

The cited art, alone or in combination does not disclose "evaluating and using the additional information by the base station for controlling a transmitting power for a further signaling channel for allocating the requested number of transmission channels to the radio station" as recited in claim 11 and similarly recited in claim 18. *Fuji* discloses a mobile communication system whereby a traffic channel is allocated to a mobile station which is situated within a micro cell for carrying out radio/language transmission. The micro cell itself is arranged within a (larger) radio cell of a cellular radio network. The traffic channel, which is allocated to the mobile station, can be used within the radio cell and within the micro cell (the respective base stations of the radio cell and of the micro cell have access to the same traffic channels). The traffic channel is allocated such that only low interferences occur in the larger radio cell (see column 1, lines 5 to 13, column 2, lines 39 to 67, column 3, lines 13 to 20, column 5, lines 47 to 54).

The mobile station in *Fuji* receives order from an independent base station (a base station of the micro cell) to measure field intensities regarding selected traffic channels and to transmit

the determined measuring results to the independent base station (see column 5, lines 43 to 63). Therefore, the mobile station determines the respective reception levels of the selected traffic channels and communicates the measuring results to the independent base station. Accordingly, a suitable traffic channel is selected (see column 5, lines 43 to 63, and column 2, lines 50 to 55). If the mobile station is in "standby mode", the SCCH signalization channel is used for communicating the measuring results (see column 7, lines 34 to 37). However, nothing in these disclosures teach evaluating and using the additional information by the base station for controlling a transmitting power for a further signaling channel for allocating the requested number of transmission channels to the radio station

Although the present Office Action admits that *Fujii* does not teach using additional information for controlling and transmitting power for a further signaling channel, the Office Action nonetheless asserts that because *Fujii* allegedly teaches that a base station needs a control channel for controlling outgoing and incoming calls wherein the controlled channel contains information of the base stations predetermined transmitting power, it would have been obvious to determine the base station's predetermined transmitting power based on additional information in such a way that the level of the transmitting power must be higher than the measured interference levels so that the selected channels avoid interferences. In support of this allegation, the Office Action references Figure 6 and column 6, lines 12-19 of *Fujii*. This cited disclosure of *Fujii*, however, does not teach or suggest "controlling a transmitting power for a further signaling channel" using the additional information. Rather, this section merely describes that a control channel containing control data may include information specific to an individual base station, such as transmitting power.

Moreover, the Office Action appears to fail to appreciate the actual claimed feature of "controlling a transmitting power for a further signaling channel" because the rejection merely refers to a base station's predetermined transmitting power for, presumably, control and traffic channels, not of a "further signaling channel for allocating the requested number of transmission channels to the radio station." Thus, one of ordinary skill in the art would not receive motivation, regardless of any stated motivation in the Office Action, to control "a transmitting power for a further signaling channel for allocating the requested number of transmission channels to the radio station." This is because one of ordinary skill in the art, looking at the

teachings of *Fujii*, would, in order to avoid interference, merely select a suitable transmission channel from a plurality of possible channels of the bases of the radio field. Thus, the need for power control and, in particular, power control of a second signaling channel, would never arise or even occur to one of ordinary skill in the art looking at *Fujii*. Similarly, with respect to independent claim 18, *Fujii* would not teach or suggest the claimed "evaluating device . . . for controlling a transmitting power for a further signaling channel for allocating the requested number of transmission channels."

The *Bark* reference discloses two types of performance controls for different transmission channels, e.g. "for paging channels PCH", for "forward access channel FACH" and for "traffic channels TCH". In contrast, the present invention does not describe an allocation of a channel but a performance control of a further signalization channel. This feature is clearly recited in the present claims. In a first signalization channel, a radio cell transmits the request as to how many transmission channels are needed for a communication connection, and additional bits of information representing transmission conditions of the radio interface are additionally transmitted in the first signalization channel. The base station evaluates these additional bits of information which are also used for a control of a transmitted power for a further signalization channel whereby the further signalization channel is used for allocating the requested number of transmission channels to the radio station.

Additionally, *Fujii* does not teach or suggest a CDMA subscriber separation. The codes taught by Fujii serve to designate a base station and are not in any way used for CDMA communication in which an individual CDMA code is assigned to each subscriber for encrypted data communication as featured in the preambles of both claims 11 and 18. Although the Applicants recognize that the elements of a preamble do not normally define claimed subject matter, this nonetheless evidences that one of ordinary skill in art would not look at *Fujii* as either anticipating or making obvious the features of claims 11 and 18. Additionally, *Bark* further does not teach or suggest a CDMA subscriber separation method.

In light of the above comments, the Applicant respectfully submit that the cited prior art of record does not teach or suggest all of the elements of claims 11 or 18.

With respect to dependent claims 12-17 and 19-20, which depend respectively on independent claims 11 and 18, these claims are believed to be allowable on their merits and at least for the reasons presented above.

Should the Examiner maintain the current rejections, Applicants respectfully request an Examiner Interview on the matter, and reserve the rights therein. The Examiner is also encouraged to contact the undersigned to arrange an Interview, if appropriate.

In light of the foregoing comments, the Applicants respectfully submit that the application is in condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
BELL, BOYD & LLOYD LLC

BY _____
Peter Zura
Reg. No. 48,196
P.O. Box 1135
Chicago, Illinois 60690-1135
Phone: (312) 807-4208

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